

**MINUTES OF THE MEETING OF THE  
NEW JERSEY SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD  
AT THE OFFICES OF THE  
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE  
TRENTON, NEW JERSEY  
November 17, 2004**

**Members participating:** Gary Cupo; Darrel Farkus (United); John Foley (CIGNA); Jack Kalosy (HealthNet); Vicki Mangiaracina (DOBI); Mary McClure (Aetna); Ulysses Lee (Guardian); Jim Stenger; Mike Torrese (Horizon); Tony Taliaferro (AmeriHealth); Joseph Tricarico, Jr. (DOHSS); Dutch Vanderhoof.

**Others participating:** DAG Karyn Gordon (DOL); Rosaria Lenox, Program Accountant; Wardell Sanders, Executive Director.

**I. Call to Order**

J. Stenger called the meeting to order at 10:05 a.m. W. Sanders announced that notice of the meeting had been published in three newspapers and posted at the Department of Banking and Insurance ("DOBI"), the DOBI website, and the Office of the Secretary of State in accordance with the Open Public Meetings Act.

The Board welcomed John Foley from CIGNA HealthCare as a newly elected Board member representing HMOs. W. Sanders reported that the other recently elected Board member, Christine Stearns from the New Jersey Business and Industry Association, was not able to attend the meeting and sent her regrets. W. Sanders also noted that on November 15, 2004, the Senate Judiciary Committee advised and consented on the reappointment of Dutch Vanderhoof as a broker representative and on the appointment of Margaret Kohler (CSHP) as a member of the public at large.

**II. Public Comments**

No comments were offered.

**III. Review of Minutes**

*Minutes of October 20, 2004*

**T. Taliaferro offered a motion to approve the minutes of the Open Session of the October 20, 2004 SEH Board meeting, as amended. M. McClure seconded the motion. The Board voted in favor of approving the motion with J. Foley abstaining.**

#### IV. Staff Report

##### *Expense Report*

The Board reviewed an expense report with the expenses listed below.

Payee	Legal Services	Meeting Expenses	Phone	Postage & Delivery	Public Notices	Travel, Tolls & Parking	Description
Courier Post	-	-	-	-	18.36	-	Board Meeting Notice - 10/04 - FY05
Division of Law	705.00	-	-	-	-	-	1Q05 Actual Charges - FY05
FedEx	-	-	-	149.70	-	-	Board Committee Info 10/04 - FY05
Kestrel Investment Partner	-	-	-	-	-	90.00	Parking Lenox 12/04; 1/05* - FY05
Sanders, Ward	-	-	6.30	-	-	35.80	Speeches; Seminar; Cell PhoneExp'es* - FY05
Trenton Bagel	-	53.19	-	-	-	-	Board Mtg Bagels/Beverages 11/04 - FY05
November Total PAID	705.00	53.19	6.30	149.70	18.36	125.80	1,058.35
*Indicates expenses shared with IHC Board							

**J. Kalosy offered a motion to approve the payment of the expenses specified on the November 2004 expense report. V. Mangiaracina seconded the motion. The Board voted unanimously in favor of approving the motion.**

##### *Legislative Update*

W. Sanders reported that S.963, a bill which would expand both the duration and eligibility for state continuation, had passed both houses of the Legislature and was on the Acting Governor's desk. He reported that A. 3440, a bill which amends the mandate for lead treatment and some other benefits to allow for use of a deductible for plans issued for use with an HSA, had been introduced. He also reported that Acting Governor Codey had issued Executive Order 1 creating a task force that will recommend ways to better help the mentally ill lead normal lives. He noted that the Task Force is charged with the responsibility for reviewing and evaluating, among other things, the availability, accessibility and gaps in the mental health services and insurance provided.

With respect to federal legislation, W. Sanders reported that with President Bush's re-election, the federal Association Health Plan Bill would be on the legislative agenda.

J. Kalosy reported that he and members of the New Jersey Health Underwriters Association met with Assemblyman Cohen and other legislators to talk about A.3359, a bill that significantly modifies the individual and small employer markets.

### *Outreach*

W. Sanders reported that on October 21, 2004 he participated in an invitation only round-table discussion with academics, consultant, think tank representatives, carrier representatives and others on Health Savings Accounts in Washington, DC as part of the Health Care Financing and Organization initiative of the Robert Wood Johnson Foundation. He also reported that on November 3, 2004, he spoke to a group called the Employee Benefits Advisors Group in Florham Park.

## **V. Legal Committee**

W. Sanders reported that the SEH Legal Committee had considered a draft bulletin relating to three issues: (1) what the SEH Act provides by way of limitations on the general requirement of guaranteed issuance of plans and riders when an employer already has a plan or plans; (2) what applicable law requires carriers to issue to New Jersey small employers with out-of-State employees; and (3) what the statute requires when it provides that carriers must “offer” coverage.

With respect to the first issue, the Board sought clarification of an employer’s right to purchase a plan of the same actuarial value. W. Sanders said that the limitation on guarantee issuance in the SEH Act set forth at N.J.S.A. 17B:27A-50, did not set limitations on the purchase of a plan of the same actuarial value. In effect, an employer could purchase a plan of the same value at any time. He suggested that the bulletin be revised to reflect this. The Board agreed. D. Vanderhoof expressed concern that the interpretation represented a rollback on the positions that the Board had taken on the application of this provision of the law.

With respect to the second issue noted above regarding employers with out-of-State employees, D. Farkus asked that the bulletin be modified to insert text explaining when an employer with out-of-State employees was considered a New Jersey small employer. The Board agreed.

With respect to the third issue noted above regarding offering coverage, the Board indicated that the bulletin’s requirement that a carrier develop a complete list and description of plans and riders may take carriers some time to develop. The Board agreed that a compliance deadline of January 1, 2005 would provide carriers sufficient time to comply. M. McClure asked how a carrier could comply if the inquiring party did not have access to a fax, email, or the internet. W. Sanders said that a carrier could comply by sending a letter with the information within a 24-hour period.

The Board discussed at length the third minimum standard in the bulletin. Most of the discussion focused on the consequences of a third party not providing an accurate rate quote. W. Sanders noted that after the Legal Committee’s consideration of this provision he had a discussion with Neil Vance, the DOBI’s Chief Life and Health Actuary, in which Mr. Vance suggested that a carrier’s good faith efforts to oversee a third party might impact the application of N.J.A.C. 11:21-9.6, a DOBI regulation dealing with errors in rate quotations and rate calculation. The Board agreed that W. Sanders should

further clarify the DOBI's position and include that position in the draft bulletin for further consideration by the Board. Lastly, the Board discussed the notion of parity in the timing of providing rate quotes for all products. He noted that the Committee recommended that the draft provision be removed as it could be seen as setting a standard higher than that currently set forth in the Board's existing regulation at N.J.A.C. 11:21-7.9(a). Some members of the Board indicated that they did not believe it necessary for the Board to further regulate the timing of rate quotes, other Board members indicated that they wished to consider this matter further at a later date. W. Sanders indicated that he would send a revised draft to the Board for ratification. If a single Board member objected to the revised draft, the bulletin would be held for further consideration, if no Board member objected, he would issue the bulletin.

**J. Kalosy offered a motion to issue the bulletin, with modifications consistent with the Board's discussion, and subject to ratification of all Board members. G. Cupo seconded the motion, and the motion was approved with D. Vanderhoof voting against the motion.**

## **VI. Report of the Finance and Operations Committee**

### *FY2005 Budget*

R. Lenox reported on a draft FY2005 budget which she had prepared and which had been reviewed by the Finance and Operations Committee members. The draft budget anticipated FY2005 annual expenses of \$247,050, and showed FY2004 actual expenses of \$211,296.

### *FY2005 Assessment*

W. Sanders reported on a draft FY2005 administrative assessment, which used reported net earned small employer premium from calendar year 2003. He noted that carriers may reduce reported net earned premium amount by the amount of refunds paid in that calendar year as a result of not meeting the minimum 75 percent loss ratio requirement.

He reported that the SEH Board had approximately \$700,000 in surplus funds from prior year administrative assessments. W. Sanders reported that he did not believe the Board would have financial statements ready by the end of the fiscal year. He reported that while the Board's staff had detailed underlying accounting records, it was behind in the development of financial statements. He noted that the DOBI's layoff of the Board's last accountant and resulting staffing shortage was largely responsible for the backlog. He reported that he was confident that a plan was in place to get the Board's financial records current. He cited the hiring of R. Lenox, the Board's new program accountant and a CPA. He also noted that the Program would be loading its financial records onto the Great Plains Accounting Software package and that R. Lenox would begin training on the software program shortly. He noted that he anticipated the Board would be in a position to issue an RFP for auditing services in the summer of 2005, when the Board would have a better idea of how close it was to completion of the annual statements. He explained that reconciliation for each fiscal year would be done as the audits are completed. He mentioned that the risk of not assessing each year is that a carrier could

become insolvent and would not have sufficient funds to pay once the final reconciliation is done, thereby increasing the liability of the other carriers. Despite that danger, he reported that the committee members unanimously agreed that the Board should not issue an invoice to collect additional funds for FY2005.

**L. Taliaferro made a motion to not issue an assessment to collect funds for FY2005 and to use the existing surplus to pay expenses for FY2005. V. Mangiaracina seconded the motion, and the motion was approved with D. Vanderhoof abstaining.**

## **VII. Public Comments**

Lynn Crow, a licensed insurance producer, said that she believed that the changes discussed by the Board with respect to limitations on an employer's ability to purchase certain plans when they already had a plan would not be liked by many employers wishing to make a change. W. Sanders stressed that an employer could still purchase a plan prior to the first anniversary date of its existing plan, if the new plan was of similar actuarial value.

Barbara Zeigler, also a licensed insurance producer, asked if the Board could publish approved minutes on the DOBI's web site. The Board considered the request and agreed that posting would be a good idea. W. Sanders indicated that he would look into putting the minutes on the web.

## **VI. Close of Meeting**

**J. Kalosy offered a motion to adjourn the Board meeting. D. Farkus seconded the motion. The Board voted unanimously in favor of the motion.**

*[The meeting adjourned at 12:10 p.m.]*